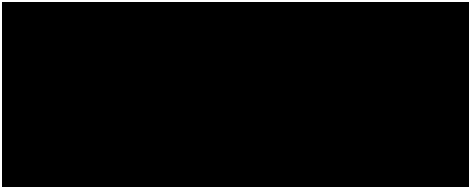




U.S. Citizenship
and Immigration
Services

CI



File: [REDACTED] Office: VERMONT SERVICE CENTER

Date: JUL 9 2004

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

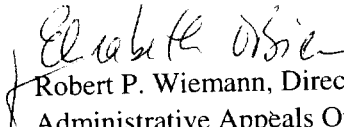
Petition: Immigrant Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

IN BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.


Robert P. Wiemann, Director
Administrative Appeals Office

Identifying information is
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be rejected as untimely filed.

In order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the affected party must file the complete appeal within 30 days after service of the unfavorable decision. If the decision was mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.5a(b).

Further, the regulation at 8 C.F.R. § 103.5(a)(1)(i) states, in pertinent part:

Any motion to reconsider an action by the Service filed by an applicant or petitioner must be filed within 30 days of the decision that the motion seeks to reconsider. Any motion to reopen a proceeding before the Service filed by an applicant or petitioner, must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before the period expires, may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and was beyond the control of the applicant or petitioner.

The record reflects that the director denied the petition on November 15, 2002. The record further reflects that a subsequent appeal was filed with the Vermont Service Center on December 14, 2002. This appeal was rejected by the director on March 24, 2003, because the party filing the appeal, the beneficiary, lacked standing to appeal. On July 7, 2003, a second appeal was filed with the Vermont Service Center. However, although this appeal was filed by the appropriate party, it was not filed with the Vermont Service until more than three months after the appeal was rejected and seven months after the original decision. As such, the petitioner's filing cannot be considered timely either as an appeal of the original decision or a motion to reopen and reconsider the decision rejecting the appeal.

As the petitioner's filing was untimely, the appeal must be rejected.

ORDER: The appeal is rejected.